

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HENDERSON-UNION RURAL ELECTRIC	)	
COOPERATIVE CORPORATION	)	
	)	
COMPLAINANT	)	
	)	
VS.	)	CASE NO. 93-132
	)	
KENTUCKY UTILITIES COMPANY	)	
	)	
DEFENDANT	)	

O R D E R

On November 30, 1993, Henderson-Union Rural Electric Cooperative Corporation ("Henderson-Union") filed a motion requesting a voluntary dismissal of its territorial boundary complaint against Kentucky Utilities Company ("KU"). In support of its motion, Henderson-Union states that it filed the complaint to assert its exclusive right to provide electric service to a new mine facility to be operated by Peabody Coal Company ("Peabody") which was originally to be located within Henderson-Union's service territory. However, due to a subsequent change in plans by Peabody, the bore hole for the new mine facility will now be located within KU's service territory. Henderson-Union requests that the dismissal be without prejudice to its right to refile in the event that Peabody should again change its plans and relocate the bore hole for this new facility within Henderson-Union's territory.

On July 6, 1993, KU filed a response in support of Henderson-Union's request for dismissal but objecting to a dismissal without prejudice. KU argues that the facts of this case require the Commission to follow established precedent which would deny Henderson-Union any right to serve Peabody's new mine facility.

Based on the motion and the response, and being otherwise sufficiently advised, the Commission hereby finds that good cause has been shown to dismiss this case without prejudice. The parties have not submitted a stipulation of facts and without further proceedings the record is insufficient for the Commission to make the findings of fact and conclusions of law as urged by KU that Henderson-Union has no right to provide electric service to Peabody's new facility under any set of circumstances.

IT IS THEREFORE ORDERED that this case be and it hereby is dismissed without prejudice.

Done at Frankfort, Kentucky, this 15th day of July, 1993.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director